



June 19, 2019

Via Email and First Class Mail:

J. Ader
MuckRock News
411A Highland Avenue
Somerville, MA 02144
72673-66257604@requests.muckrock.com

Via Email Only:

Tammy Life
Agency Open Records Officer
Harrisburg City
MLK City Government Center
10 North Second Street, Suite 402
Harrisburg, PA 17101
tlife@harrisburgpa.gov

RE: OFFICIAL NOTICE OF APPEAL-DOCKET #AP 2019-0940

Dear Parties:

Please review this information carefully as it affects your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101, *et seq.* on **June 18, 2019**. This letter describes the appeal process. A binding Final Determination will be issued pursuant to the timeline required by the RTKL. In most cases, that means within 30 calendar days. The OOR's Final Determination is currently due on **July 18, 2019**.

OOR Mediation: This is a voluntary, informal process to help parties reach a mutually agreeable settlement on records disputes before the OOR. To participate in mediation, both parties must agree in writing. The Parties agreement to mediate stays the Final Determination Deadline. If mediation is unsuccessful, both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a Final Determination, unless the Requester agreed to an additional 30 calendar day extension on the appeal form.

Note to Parties: Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Any factual statements or allegations submitted without an affidavit will not be considered. The agency has the burden of proving that records are exempt from public access (*see* 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.** The law requires the agency's position to be supported by sufficient facts *and* citation to all relevant sections of the RTKL, case law and OOR Final Determinations. An affidavit or attestation is required to show that records do not exist. Blank sample affidavits are available on the OOR's website.

Submissions to OOR: Both parties may submit information and legal argument to support their positions by **11:59:59 p.m. on June 28, 2019**. The record closing date is seven (7) business days from the date of this letter unless the proceedings have been stayed for the

parties to submit a completed mediation agreement form, then the record will remain open for seven (7) additional business days beyond the mediation agreement submission deadline. *Submissions sent via postal mail and received after 5:00 p.m. will be treated as having been received the next business day.* The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Include the above docket number on all submissions related to this appeal. Also, any information you provide to the OOR must be provided to all parties involved in this appeal. Information shared with the OOR that is not also shared with all parties will not be considered.

Agency Must Notify Third Parties: If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above.** Such notice must be made by (1) providing a copy of all documents included with this letter; and (2) advising that interested persons may request to participate in this appeal (*see* 65 P.S. § 67.1101(c)).

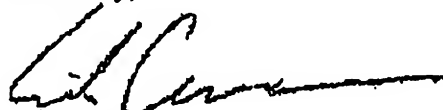
Commonwealth Court has held that “the burden [is] on third-party contractors ... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep’t of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)). **Failure of a third-party contractor to participate in an appeal before the OOR may be construed as a waiver of objections regarding release of the requested records.**

Law Enforcement Records of Local Agencies: District Attorneys must appoint Appeals Officers to hear appeals regarding criminal investigative records in the possession of a local law enforcement agency. If access to records was denied in part on that basis, the Requester should consider filing a concurrent appeal with the District Attorney of the relevant county.

Public Record Notice: All dockets, filings and OOR orders and opinions in this appeal will be public records and subject to public access with limited exception. The OOR’s Final Determination will generally include a summary of the case including the identity of the parties and the relevant factual background. Final Determinations are available on the OOR’s website and searchable on-line.

If you have general questions about the appeal process, please contact the OOR at (717) 346-9903. If you have questions specific to your appeal, please email the assigned Appeals Officer (contact information is enclosed) - and be sure to provide a copy of any correspondence to all other parties involved in this appeal.

Sincerely,



Erik Arneson
Executive Director

Enc.: Assigned Appeals Officer contact information
Entire appeal as filed with OOR



pennsylvania

OFFICE OF OPEN RECORDS

APPEALS OFFICER:

Jordan Davis, Esq.

CONTACT INFORMATION:

Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

FACSIMILE:

(717) 425-5343

EMAIL:

jorddavis@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

Please direct submissions and correspondence related to this appeal to the above Appeals Officer. Please include the case name and docket number on all submissions.

You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot speak to parties individually without the participation of the other party.

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Record at issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____ (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

MuckRock News
DEPT MR 72673
411A Highland Ave
Somerville, MA 02144-2516
72673-66257604@requests.muckrock.com

RTK APPEAL

RECEIVED

JUN 18 2019

OFFICE OF OPEN RECORDS

Harrisburg Police Department
RTK Appeal
16th Floor,
Office of Open Records, 333 Market St.
Harrisburg, PA 17101-2234

June 11, 2019

----- This is a follow up to a previous request: -----

To whom it may concern,

I would like to appeal the partial denial in the Right To Know public records request I originally made on May 2, 2019 (see a copy of the original request email here:
https://www.muckrock.com/foi/raw_email/718178/)

The partial denial from the agency is the following: "The fifth item seeking 5) "Any/all manuals regarding CRIMEWATCH Technologies products/services" is DENIED for the following reason pursuant to 708(b)(11) of the RTKL: The requested records constitute or reveal a trade secret or confidential proprietary information." (the full request response can be found here:
https://cdn.muckrock.com/foia_files/2019/06/06/2019-085_COHGrantedInpartDeniedInpart.pdf)

I would like to appeal this denial on the grounds that according to the Pennsylvania Right-to-Know Law, to be protected by this exception, a record must be "confidential or financial information received by an agency (1) which is privileged or confidential; _and_ (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information." (See Pa. Dept. of Public Welfare v. Eiseman.)

I do not consider the disclosure of a manual for "crime mapping" technology or any other products respective to this request to cause any harm to competition, and I believe the public's right to know is key here as well.

Regards,
J. Ader

Filed via MuckRock.com
E-mail (Preferred): 72673-66257604@requests.muckrock.com

For mailed responses, please address (see note):

MuckRock News
DEPT MR 72673
411A Highland Ave
Somerville, MA 02144-2516

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Somerville, MA 02144-2516
72673-66257604@requests.muckrock.com

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On June 6, 2019:
Please see the attached response to your request. Thank you.

Tammy

On May 22, 2019:
Please note that as stated in the letter, which I see you received via email on May 7, 2019, the City expects to respond to your request by June 6, 2019.

Tammy

On May 7, 2019:
Good afternoon,

Attached is Attorney Baldock's response to the above right to know request. Thank you.

Tammy Life
Tammy Life
Legal Assistant
Right to Know Officer
City of Harrisburg - Law Bureau
10 N 2nd St Suite 03 Harrisburg, PA 17101
Phone: 717-255-6521
Email : tllife@harrisburgpa.gov

On May 2, 2019:
To Whom It May Concern:

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:

All documents pertaining to all/any CRIMEWATCH Technologies product(s) (<https://crimewatchtech.com>). Documents being requested here should include - but are not limited to - the following:

- Invoices or receipts for the purchase of any CRIMEWATCH Technologies product/service

MuckRock News
DEPT MR 72673
411A Highland Ave
Somerville, MA 02144-2516
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- MOUs from CRIMEWATCH Technologies
- Brochures or product/service specifications regarding CRIMEWATCH Technologies products/services
- Privacy policies regarding CRIMEWATCH Technologies products/services
- Any/all manuals regarding CRIMEWATCH Technologies products/services
- Guidelines mentioning CRIMEWATCH Technologies
- Bulletins mentioning CRIMEWATCH Technologies
- Briefings mentioning CRIMEWATCH Technologies
- Any/all digitally disseminated publications from your agency mentioning CRIMEWATCH Technologies

I am confident there are documents relevant to this request based on comments describing the use of the company's products by your agency on the official company webpage: <https://crimewatchtech.com/>

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

J Ader

Filed via MuckRock.com
E-mail (Preferred): 72673-66257604@requests.muckrock.com

For mailed responses, please address (see note):

MuckRock News
DEPT MR 72673
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.



INVOICE

Harrisburg Bureau of Police
Captain Deric Moody
City of Harrisburg Police Bureau
123 Walnut Street
HARRISBURG PA 17101
USA

Invoice Date
Nov 27, 2018

Invoice Number
INV-0236

Reference
INV-0210

CRIMEWATCH
Technologies, Inc.
PO Box 339
EAST BERLIN PA 17316
UNITED STATES

| Description | Quantity | Unit Price | Tax | Amount USD |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|------------|------------|
| Monthly Costs: Infrastructure, Storage/Archiving, Database Transfer/API, Bandwidth, ControlShare, Email Notifications, CRIMEWATCH Mobile Integration, Crime Mapping, Tip platform, Support Package 1 | 12.00 | 1,042.00 | Tax Exempt | 12,504.00 |
| PA Chiefs of Police Association Member Discount | 12.00 | (250.00) | Tax Exempt | (3,000.00) |
| Domain Registration: www.hbgpd.org | 1.00 | 25.00 | Tax Exempt | 25.00 |
| Raspberry Pi STB: Secure CRIMEWATCH TV Box | 1.00 | 100.00 | Tax Exempt | 100.00 |
| TV Hardware New Contract Waiver: Hardware costs for CRIMEWATCH TV included in contract | 1.00 | (100.00) | Tax Exempt | (100.00) |
| TV Monthly Subscriptions | 12.00 | 30.00 | Tax Exempt | 360.00 |
| CRIMEWATCH TV Renewal Subscription Waiver | 12.00 | (30.00) | Tax Exempt | (360.00) |
| CRIMEWATCH Monthly Subscription paid through JAG Grant | 12.00 | (375.00) | Tax Exempt | (4,500.00) |
| Subtotal | | | | 5,029.00 |
| TOTAL USD | | | | 5,029.00 |

Due Date: Dec 15, 2018

HOLD/CALL ☐ WALKTHRU ☐
APPROVALS TCC
VENDOR # 113118
PO # 18000636
BATCH # 112718JC
RECORD # 460303-306
BUDGET/ACCOUNT 01040142 425090



City Government Center
10 North Second Street, Suite 402
Harrisburg, PA 17101
Phone: (717) 255-3065
Facsimile: (717) 255-3056

City of Harrisburg

Right-To-Know Response – CRIMEWATCH **GRANTED IN PART/DENIED IN PART**

June 6, 2019

Via email to 72673-66257604@requests.muckrock.com

J. Ader
MuckRock News
DEPT MR 72673
411A Highland Ave
Somerville, MA 02144-2516

Dear J. Ader:

Thank you for writing to the City of Harrisburg with your request for records pursuant to Pennsylvania's Right-To-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*

On May 2, 2019, you requested "All documents pertaining to all/any CRIMEWATCH Technologies product(s)" (as further recited below).

Your request is DENIED IN PART and GRANTED IN PART as follows:

The first item of your request seeking 1) "Invoices or receipts for the purchase of any CRIMEWATCH Technologies product/service" is GRANTED. The relevant record is enclosed.

The second through fourth items seeking 2) "MOUs from CRIMEWATCH Technologies", 3) "Brochures or product/service specifications regarding CRIMEWATCH Technologies products/services" and 4) "Privacy policies regarding CRIMEWATCH Technologies products/services" are DENIED for the following reasons pursuant to 705 and 901 of the RTKL:

Based on a thorough examination of records in the possession, custody and control of the City of Harrisburg, the records you requested do not exist in the possession, custody and control of the City of Harrisburg.

The fifth item seeking 5) "Any/all manuals regarding CRIMEWATCH Technologies products/services" is DENIED for the following reason pursuant to 708(b)(11) of the RTKL:

The requested records constitute or reveal a trade secret or confidential proprietary information.

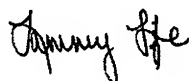
The sixth through ninth items in your request seeking 6) "Guidelines mentioning CRIMEWATCH Technologies", 7) "Bulletins mentioning CRIMEWATCH Technologies", 8) "Briefings mentioning CRIMEWATCH Technologies" and 9) "Any/all digitally disseminated publications from your agency mentioning CRIMEWATCH Technologies" are DENIED for the following reasons pursuant to 705 and 901 of the RTKL:

Based on a thorough examination of records in the possession, custody and control of the City of Harrisburg, the records you requested do not exist in the possession, custody and control of the City of Harrisburg.

You have a right to appeal this denial in writing to: Office of Open Records, 333 Market St., 16th Floor, Harrisburg, PA 17101-2234. Appeals can also be filed online at the Office of Open Records website, <https://www.openrecords.pa.gov>. If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. See 65 P.S. § 67.1101. Please note that a copy of your original Right-to-Know request and this denial letter must be included when filing an appeal. More information about how to file an appeal under the RTKL is available at the Office of Open Records website, <https://www.openrecords.pa.gov>.

This correspondence will serve to close this record with our office as permitted by law.

Respectfully,



Tammy Life
RTK Officer & Legal Assistant
*/tll
Encl.